

## Message Text

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51

ACTION NEA-13

INFO OCT-01 ISO-00 SCSE-00 SCA-01 L-03 H-03 SY-10 CIAE-00

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R 011250Z FEB 74

FM AMCONSUL ADANA

TO SECSTATE WASHDC 639

AMEMBASSY ANKARA

INFO AMCONSUL ISTANBUL

AMCONSUL IZMIR

UNCLAS ADANA 025

E. O. 11652: N/A

TAGS: CASC TU

SUBJ: ANTAKYA THREE: DEFENSE ATTORNEY REPLIES TO VERDICT

REF: ADANA 021

1) SUMMARY. KAYYUM MENZILETOGLU, DEFENSE ATTORNEY FOR ANTAKYA THREE, VISITED THERE JAN. 30 TO SUBMIT WRITTEN REJOINDER TO DETAILED ANTAKYA VERDICT DELIVERED HIM JAN. 23. THIS CONSTITUTES ROUND ONE OF APPEALS PROCESS AND NOW DOSSIER TO BE SENT ANKARA FOR ATTENTION OF SUPREME COURT OF APPEALS. DEFENSE HAS PRINCIPALLY USED POINTS SUGGESTED REFTEL IN HIS RESPONSE TO JUDGES' DECISION. END SUMMARY.

2) SINCE RECEIVING COPY OF DEFENSE STATEMENT DELIVERED

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ANTAKYA COURT JAN. 30 CONSULATE HAS HAD OPPORTUNITY TO STUDY ITS CONTENT. OF PRINCIPAL INTEREST ARE SUBSTANTIVE POINTS RAISED AS FOLLOWS:

3) (A) STATEMENTS ALLEGEDLY MADE BY ZENZ, MCDANIEL AND OTHERS OF GROUP AT TIME OF ARREST ARE FAULTY IN EVERY EVIDENTIARY SENSE AND MUST BE DISCOUNTED. DEFENDANTS KNOW NO TURKISH AND DUTY FREE SHOP CLERK PRESSED INTO INTERPRETING SERVICE, EYUP ZEKI PROFICIENT NEITHER IN ENGLISH NOR TURKISH.

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(SIC. ZEKI BEST DESCRIBED AS NATIVE SPEAKER OF NON-TURKISH

DIALECT.) HIS INADEQUACY WAS NOTED BY SEVERAL OFFICIALS. ADDITIONALLY, ZEKI HIMSELF TESTIFIED IN COURT THAT HIS UNDERSTANDING OF SITUATION ON MORNING OF DEC. 10, 1972 WAS THAT ONLY ROBERT HUBBARD ADMITTED KNOWING OF HASHISH, WHATEVER IMPRESSION TO THE CONTRARY HE MAY HAVE GIVEN TO CUSTOMS AND POLICE OFFICIALS AT THE TIME. DEFENDANTS ALL REFUSED TO SIGN STATEMENT PREPARED WITH ASSISTANCE OF EYUP ZEKI, WHICH FURTHER CONTAINED FACTUAL ERRORS AND WAS DONE IN ONE DRAFT WITH SEVERAL CARBONS ALTHOUGH STATEMENTS OF SEVEN AMERICANS VARIED CONSIDERABLY AND COULD BY NO MEANS HAVE BEEN TAKEN AS IDENTICAL. IN FINDING FOUR OF THE SEVEN DEFENDANTS INNOCENT THE COURT ITSELF APPEARS TO HAVE

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DISCOUNTED STATEMENTS MADE AT BORDER. HOW, THEN, CAN THEY BE USED SELECTIVELY AGAINST ZENZ AND MCDANIEL?

4) (NOTE: IN THE SUMMARY ABOVE "AT THE BORDER" REFERS TO AN INITIAL ENCOUNTER AND SET OF STATEMENTS MADE TO CUSTOMS OFFICERS AT THE BORDER STATION AT CILVEGOZU AND A SUBSEQUENT ENCOUNTER AT THE FIRST TOWN, REYHANLI, WHICH HAS A REGULAR POLICE OFFICE. IN THE ACTUAL DEFENSE REJOINDER TEXT AN ATTEMPT IS MADE TO ACCOUNT SEPARATELY FOR THE TWO EVENTS IN ORDER TO PREJUDICE TESTIMONY MADE AT EITHER PLACE.)

5) THREE REMAINS NO CONVINCING EVIDENCE DEMONSTRATING THAT ZENZ AND MCDANIEL ACTED IN CONSPIRACY WITH HUBBARD. THE FACT OF THEIR TRAVELLING TOGETHER HAS BEEN TAKEN AS EVIDENCE WHEN IN FACT IT CONSTITUTES NONE. COURT'S VERDICT MADE MUCH OF FACT THAT HASHISH HAD BEEN STORED IN IDENTICAL PLACES IN THE THREE CARS, ASSERTING THAT THIS DEMONSTRATES COLLUSION WHEN IN FACT IT MORE LIKELY DEMONSTRATES SINGLE AUTHORSHIP. FURTHER, THE HIDING JOB WAS SO GOOD THAT IT EASILY CAN BE BELIEVED THE GIRLS DID NOT SUSPECT THE PRESENCE OF A CACHE OF HASHISH. THEY WERE DUPED, AS HAS BEEN OFTEN STATED. HUBBARD FOR EXAMPLE STATED AMONG OTHER THINGS THAT THE HASHISH WAS PLACED WHILE THE VEHICLES

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WERE PARKED AT AN ENCAMPMENT OUTSIDE BEIRUT AND ALL TRAVELLERS UNCLASSIFIED

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BUT HIMSELF WERE IN CITY. GIRLS' ONLY KNOWLEDGE OF ROBERT'S ACTIVITIES DERIVED FROM WHAT HE HAD TOLD THEM, I.E. THAT THEY WERE TO PICK UP ATTRACTIVE ITEMS LIKE RUGS, COATS, HANDICRAFTS ETC. IN BEIRUT AND RETURN THEM TO EUROPE. THEY SUBSEQUENTLY TOLD THEY MUST RETURN EMPTY-HANDED AS FAR AS ISTANBUL BECAUSE PRICES IN LEBANON WERE TOO HIGH AND HUBBARD HOPED TURKISH PRICES WOULD BE MORE REASONABLE.

6) (NOTE: DEFENSE HAS STATED PRIVATELY TO US THAT THIS

LAST ASSERTION HAD ALSO BEEN MADE DURING AN EARLIER COURT SESSION. CONSULATE HAS NO RPT NO RECOLLECTION OF THIS, AND ONLY FULL COURT RECORD WOULD ANSWER WHOSE MEMORY IS BETTER. POSSIBILITY EXISTS THAT THIS ASSERTION WAS INCLUDED IN WRITTEN STATEMENT HUBBARD MADE SEPARATELY TO COURT IN SEPT. 1973. SEE REFTTEL PARAS. 8, 10A AND 11.)

7) (C) JUDGES ASKED FOR OPINIONS IN COURT FROM CUSTOMS AND POLICE OFFICIALS CONCERNING WHO AMONG SEVEN AMERICANS LIKELY KNEW OF PRESENCE HASHISH IN THE THREE VEHICLES. JUDGES APPEAR TO HAVE SET STORE BY THEIR REPLIES WHICH COULD ONLY HAVE BEEN BASED ON PERSONAL OPINION (AND THESE IN TURN BASED ON FAULTY

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INTERPRETING ATTRIBUTED ELSEWHERE IN STATEMENT TO EYUP ZEKI).

8) VIEWING ALL THESE FACTS A CONVICTION WILL NOT STAND, AND ITS HAVING BEEN GIVEN IN VIEW OF THE GRAVITY OF THE ALLEGED CRIME AND THE EXTREME PENALTIES CALLED FOR IS INJUSTICE DEMANDING RECTIFICATION.

9) DEFENSE REJOINDER ALSO INCLUDES TWO PROCEDURAL POINTS, AND ALSO ADDRESSES TWO LESS IMPORTANT ISSUES: A) COURT FAILED TO DEMONSTRATE THAT FOUR ACQUITTED AMERICANS INTENDED TO JUMP BAIL. THEY WERE HANDED THEIR PASSPORTS BUT ONLY AFTER PASSAGE OF SOME TIME DID THEY LEAVE TURKEY. EVEN THEN THEY INFORMED COURT OF (PRESUMABLY TEMPORARY) ADDRESSES IN U.S. AND PRESENTED WRITTEN REASONS FOR NOT RETURNING IMMEDIATELY. B) COURT FAILED TO ESTABLISH WHAT CRIMINALITY OR NEGLIGENCE CAR RENTAL COMPANY HAD SHOWN WHICH MERIT CONFISCATION OF ITS VEHICLES.

10) OUR UNDERSTANDING IS THAT SUBMISSION OF STATEMENT DESCRIBED IN FOREGOING COMPLETES THE ANTAKYA PORTION OF THE DOSSIER, AND THAT WITH ITS BEING POSTED WITHIN A FEW DAYS TO SUPREME COURT OF APPEALS IN ANKARA A NEW PHASE IN THE PROCEEDINGS IS NOW TO UNCLASSIFIED

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BE OPENED.

11) FOR ANKARA: CONSULATE WILL MONITOR MAILING DATE AND

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IDENTIFYING DATA SO THAT PROF. EREM CAN BE INFORMED.

HALLMAN

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NNN

## Message Attributes

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